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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,556	01/11/2002	Roy Frank Brabson	RSW920010159US1	1822

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EXAMINER

FLEARY, CAROLYN FATIMAH

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/045,556	BRABSON ET AL.	
	Examiner	Art Unit	
	Carolyn F. Fleary	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 22, 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/29/2002</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement is made of an Election of Group I claims 1-21 and 23 without traverse as filed by Applicant on June 22, 2005.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 1 and 2 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. Claim 1 recites the adjective "its". It is unclear as to what is being referred to by the recitation of "its". It is unclear what is being modified.
 - b. Claim 2 recites the adjective "its". It is unclear as to what is being referred to by the recitation of "its". It is unclear what is being modified.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. **Claims 1- 7, 9-12, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Buhrke et. al. (US 5,280,470).**

- c. In regards to claim 1 and 23, Buhrke et al. discloses a method of improving traffic management in a network, comprising steps of:
- i. detecting a changed environmental condition (e.g. virtual channel request- col. 5 ll. 1-3, establishment of virtual channel, col. 5 ll. 34, rate of active cells- col. 5 ll. 35);
 - ii. generating notification of the detected condition (e.g. message with number of channels – col. 5 ll. 11-12, load reduction request- col. 5 ll. 37)
 - iii. analyzing the generated notification by consulting one or more criteria (e.g. analyses whether value of $N1/N2$ is acceptable- col. 5 ll. 20-21, analyzes load reduction request -col. 5 ll. 35)
 - iv. determining, based on the analysis, whether to modify behaviors in a currently-execution application (e.g. determining whether to accept or reject number of channels col. 5 ll. 20-24, determining whether to increase or decrease a factor col. 5 ll. 44-46)
- d. In regards to claim 2, Buhrke et al. discloses the method according to claim 1, further comprising the step of modifying, by the currently-executing application its behavior (e.g. modifying the request levels col. 5 ll. 20-24, reducing or increasing the factor col. 5 ll. 44-46)
- e. In regards to claim 3, Buhrke et al. discloses the method according to claim 2, wherein the modification comprises reducing the size of one of more data objects generated by the currently executing application (e.g. reduce rate of cells, lower bucket, reduce bandwidth virtual channel col. 5 ll. 35-400, col. 611-20).
- f. In regards to claim 4, Buhrke et al. discloses the method according to claim 2 wherein the modification comprises reducing data retrieval by the currently-executing application (e.g. decreasing the $N2$ factor col. 5 ll. 46-47)

- g. In regards to claim 5, Buhrke et al. discloses the method according to claim 2, wherein the modification comprises dropping one or more connections with the currently executing application (e.g. disconnection of a virtual channel, col. 6 ll. 33-49)
- h. In regards to claim 6, Buhrke et al. discloses the method according to claim 2, wherein the modification comprises increasing a sized of one of more data objects generated by the currently-executing application (e.g. increasing the number of virtual channels, hence increasing the load col. 6 ll. 2-8).
- i. In regards to claim 7, Buhrke et al. discloses the method according to claim 2, wherein the modification comprises increasing data retrieval by currently-executing application (e.g. increasing the N1 Factor col. 5 ll. 44-47).
- j. In regards to claim 9, Buhrke et al. discloses the method according to claim 2, wherein the modification comprises changing the currently-executing applications use of one or more other applications (e.g. execution of a slow down process col. 6 ll. 55-60).
- k. In regards to claim 10, Buhrke et al. discloses the method of claim 1, wherein the changed environmental condition (e.g. virtual channel exceeds rate-col. 6 ll. 34-35) pertains to system-related conditions (e.g. switch detection of excess rate col. 6 ll. 33-40).
- l. In regards to claim 11, Buhrke et al. discloses the method of claim 1, wherein the changed environmental condition pertains to network related conditions (e.g. detecting load on the network col. 34-47).
- m. In regards to claim 12, Buhrke et al. discloses the method of claim 1, wherein environmental condition (e.g. pertains to client related conditions in one or more clients (terminal, switch) of the currently executing application (col. 34-47)

5. Claims 1 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamato et al. (US 5,835,484).

n. In regards to claim 1, Yamato et al. discloses a method of improving traffic management in a network, comprising steps of:

v. detecting a changed environmental condition (e.g. detecting violations in environment, congestion state col. 6 ll. 30-35, col. 6 ll. 45-55, col. 12 ll. 15) ;

vi. generating notification of the detected condition (e.g. notify of violation col. 12 ll. 17-19, col. 12 ll. 59-60)

vii. analyzing the generated notification by consulting one or more criteria (analyzing and consulting monitoring parameters, col. 12 ll. 1. 33-39)

viii. determining, based on the analysis, whether to modify behaviors in a currently-execution application (e.g. determination to modify application monitoring parameters col. 12 ll. 34-40).

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6. In regards to claim 13, Yamato et al. discloses the method according to claim 1. Burke is silent on herein the changed environmental condition occurred internally in to a system in which the currently executing application is executing (col. 7 ll. 40-45, system of fig 1).

7. In regards to claim 14, Yamato et al. discloses the method according to claim 13 wherein the generated notification pertains to a condition of a local network protocol stack (condition indicator within a payload field of a header-31 where the indicator is used to determine existence of condition; if condition exists a notification is sent col. 7 ll. 20-39, col. 8 ll. 10-15,abs).

8. In regards to claim 15, Yamato et al. discloses the method according to Claim 13, wherein the generated notification pertains to a condition of the system in which the currently executing (execution of a program for monitoring connection-121, col. 5 ll. 53-60) application is executing.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buhrke et. al. (US 5,280,470) in view of Nahidipour et al. (US 5,983,723)

In regards to claim 8 Buhrke et al. discloses the method according to claim 2.

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Burhke is silent on wherein modification comprises changing thread assignments of the currently executing application

Nahidipour et al. discloses changing thread assignments (e.g. reducing threads) of a currently executing application in order to ensures improved data transfer efficiency, lower utilization of system resources, and memory (col. 5 ll. 45-56.).

It would be obvious to one of ordinary skill in the art at the time of the invention to modify Buhrke et al. by changing thread assignments (e.g. reducing threads) of a currently executing application, as taught by Nahidipour et al. in order to ensures improved data transfer efficiency, lower utilization of system resources, and memory as number of threads for system calls is reduced (col. 5 ll. 45-56. col. 8 ll. 37-43)

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attached US-PTO form 892 Notice of References Cited for pertinent prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn F. Fleary whose telephone number is (571) 572-7218. The examiner can normally be reached on 8:30 - 4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carolyn F Fleary
Examiner
Art Unit 2152

CFF



Dung C. Dinh
Primary Examiner